



City of Seattle

Department of Planning & Development  
Diane M. Sugimura, Director

**CITY OF SEATTLE  
ANALYSIS AND DECISION OF THE DIRECTOR  
OF THE DEPARTMENT OF PLANNING & DEVELOPMENT**

**Application Number:** 3012989  
**Applicant Name:** Stefan Wynn  
**Address of Proposal:** 2360 W Commodore Way

**SUMMARY OF PROPOSED ACTION**

Shoreline Substantial Development Permit to establish use for future construction of four buildings containing marine retail sales & service uses, three of which will contain an individual caretaker's quarters. Project includes demolition of 12,960 square feet of warehouse and office buildings, removal of one existing pier, relocation of one existing pier, and construction of a new pier. The project will result in reduction in parking from 30 stalls to 20 stalls and 1,370 cubic yards of grading.

Seattle Municipal Code (SMC) requires the following approvals:

**Shoreline Substantial Development Permit** – To allow a marine retail sales and service use with caretaker's quarters and piers in an Urban Maritime (UM) shoreline environment pursuant to SMC 23.60.020, 23.60.092 and 23.60.720.

**SEPA – Environmental Determination** pursuant to SMC 25.05.

**SEPA DETERMINATION:**    ☐ Exempt    ☒ DNS    ☐ MDNS    ☐ EIS  
   ☐ DNS with conditions  
   ☐ DNS involving non-exempt grading or demolition or  
   involving another agency with jurisdiction.

**BACKGROUND DATA**

Site Location and Zoning Designations

The project site is located at 2360 West Commodore Way on the southern shore of the Lake Washington Ship Canal. The property is within an Urban Maritime (UM) shoreline environment and an underlying General Industrial zone with a 45-ft height limit (IG1 U/45').

Project Description

The proposed project includes the demolition of a warehouse and office buildings totaling 12,960 square feet and construction of four buildings totaling approximately 26,680 square feet. Three of the four building structures will include an 800-square foot caretaker's quarters.

Project includes the removal of one existing pier, relocation of one existing pier (approximately 1,740 square feet), and construction of a new pier (approximately 1,740 square feet). The project will result in a reduction in overwater coverage and a reduction in parking from 30 stalls to 20 stalls and 1,370 cubic yards of grading.

### Public Comment

Public notice of the project application was given on August 16, 2012. The required public comment period ended on September 14, 2012. No comments were received.

### **ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT**

Section 23.60.030A of the Seattle Municipal Code provides criteria for review of a shoreline substantial development permit and reads: *A substantial development permit shall be issued only when the development proposed is consistent with:*

1. *The policies and procedures of Chapter 90.58 RCW;*
2. *The regulations of this Chapter; and*
3. *The provisions of Chapter 173-27 WAC*

*Conditions may be attached to the approval of a permit as necessary to assure consistency of the proposed development with the Seattle Shoreline Master Program and the Shoreline Management Act.*

Chapter 90.58 RCW is known as the Shoreline Management Act of 1971. It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy seeks to protect against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary incidental rights. Permitted uses in the shorelines shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water. The proposed improvements to Salmon Bay Marina Center would not adversely impact the state-wide interest of protecting the resources and ecology of the shoreline. The subject application is consistent with the procedures outlined in RCW 90.58.

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to primarily act in a supportive and review capacity, with primary emphasis on ensuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle adopted a local shoreline master program, codified in the Seattle Municipal Code at Chapter 23.60, that also incorporates the provisions of Chapter 173-27, WAC. Title 23 of the Municipal Code is also referred to as the Land Use and Zoning Code. Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions which have also been set forth in the Land Use Code.

In evaluating requests for substantial development permits, the Director must determine that a proposed use meets the relevant criteria set forth in the Land Use Code. The Shoreline Goals and Policies, part of the Seattle Comprehensive Plan, and the purpose and locational criteria for each shoreline environment must be considered. A proposal must be consistent with the general development standards of section 23.60.152, the specific standards of the shoreline environment and underlying zoning designation, any applicable special approval criteria, and the development standards for specific uses.

The proposed development actions occur on land classified as a waterfront lot (SMC 23.60.924) located within an Urban Maritime (UM) shoreline environment. The proposed improvements are associated with a marine retail sales and services facility and as such are a permitted use in the UM shoreline environment and the underlying IG-1 zone.

### **Shoreline Policies**

All discretionary decisions in the shoreline district require consideration of the Shoreline Goals and Policies, which are part of the Seattle Comprehensive Plan's Land Use Element, and consideration of the purpose and locational criteria for each shoreline environment designation contained in SMC 23.60.220. The policies support the water-dependent businesses such as the proposed marine retail sales and service use (please refer to Land Use Policy L339). An area objective for Lake Washington Ship Canal and Salmon Bay Waterway is to meet the long-term and transient needs of all Seattle's ships and boats—including fishing, transport, recreation and military, while at the same time to protect and enhance migratory fish routes and feeding areas (please refer to Area Objectives for Shorelines of Statewide Significance, Policy L354 1d). The purpose of the Urban Maritime (UM) environment as set forth in Section 23.60.220 C11 is to preserve areas for water-dependent and water-related uses while still providing some views for the water from adjacent streets and upland residential streets, such as the proposed marine retail sales and service use.

The proposed improvements for the Salmon Bay Marine Center West project would facilitate the continued and enhanced operations of an existing water dependent use, a use supported by both the purpose of the UM shoreline environment and the policies set forth in the Land Use Element of the Comprehensive Plan.

### **SMC 23.60.152 - Development Standards for all Shoreline Environments**

These general standards apply to all uses in the shoreline environments. They require that design and construction of all uses be conducted in an environmentally sound manner, consistent with the Shoreline Management Program and with best management practices for the specific use or activity. All shoreline development and uses are subject to the following:

- A. The location, design, construction and management of all shoreline developments and uses shall protect the quality and quantity of surface and ground water on and adjacent to the lot and shall adhere to the guidelines, policies, standards and regulations of applicable water quality management programs and regulatory agencies. Best management practices such as ... fugitive dust controls and other good housekeeping measures to prevent contamination of land or water shall be required.
- B. Solid and liquid wastes and untreated effluents shall not enter any bodies of water or be discharged onto the land.

- C. Facilities, equipment and established procedures for the containment, recovery and mitigation of spilled petroleum products shall be provided at recreational marinas, commercial moorage, vessel repair facilities, marine service stations and any use regularly servicing vessel.
- D. The release of oil, chemicals or other hazardous materials onto or into the water shall be prohibited. Equipment for the transportation, storage, handling or application of such materials shall be maintained in a safe and leak proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.
- E. All shoreline developments and uses shall minimize any increases in surface runoff, and control, treat and release surface water runoff so that receiving water quality and shore properties and features are not adversely affected. Control measures may include, but are not limited to, dikes, catchbasins or settling ponds, interceptor drains and planted buffers.
- F. All shoreline developments and uses shall utilize permeable surfacing where practicable to minimize surface water accumulation and runoff.
- G. All shoreline developments and uses shall control erosion during project construction and operation.
- H. All shoreline developments and uses shall be located, designed, constructed and managed to avoid disturbance, minimize adverse impacts and protect fish and wildlife habitat conservation areas including, but not limited to, spawning, nesting, rearing and habitat areas, commercial and recreational shellfish areas, kelp and eel grass beds, and migratory routes. Where avoidance of adverse impacts is not practicable, project mitigation measures relating the type, quantity and extent of mitigation to the protection of species and habitat functions may be approved by the Director in consultation with state resource management agencies and federally recognized tribes.
- I. All shoreline developments and uses shall be located, designed, constructed and managed to minimize interference with or adverse impacts to beneficial natural shoreline processes such as water circulation, littoral drift, sand movement, erosion and accretion.
- J. All shoreline developments and uses shall be located, designed, constructed and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area.
- K. Land clearing, grading, filling and alteration of natural drainage features and landforms shall be limited to the minimum necessary for development. Surfaces cleared of vegetation and not to be developed shall be replanted. Surface drainage systems or substantial earth modifications shall be professionally designed to prevent maintenance problems or adverse impacts on shoreline features.
- L. All shoreline development shall be located, constructed and operated so as not to be a hazard to public health and safety.
- M. All development activities shall be located and designed to minimize or prevent the need for shoreline defense and stabilization measures and flood protection works such as bulkheads, other bank stabilization, landfills, levees, dikes, groins, jetties or substantial site regrades.

- N. All debris, overburden and other waste materials from construction shall be disposed of in such a way as to prevent their entry by erosion from drainage, high water or other means into any water body.
- O. Navigation channels shall be kept free of hazardous or obstructing development or uses.
- P. No pier shall extend beyond the outer harbor or pierhead line except in Lake Union where piers shall not extend beyond the Construction Limit Line as shown in the Official Land Use Map, Chapter 23.32, or except where authorized by this chapter and by the State Department of Natural Resources and the U.S. Army Corps of Engineers.

As proposed and as conditioned below, the project complies with the above shoreline development standards that are applicable to the use and its impacts on the shoreline. The proposed piers for this project (one relocated and one new) will occur in the aquatic and shoreline environment of the Lake Washington Ship Canal that provides habitat for Chinook salmon. The project site serves as a migration corridor as well as potentially rearing area for juvenile Chinook salmon from the Cedar River and other water bodies in Water Resource Inventory Area 8. Additionally, predators of juvenile Chinook are known to inhabit areas under overwater structures and may use these areas as cover while preying on juvenile Chinook. Overwater coverage reduces the amount and quality of natural habitat of juvenile Chinook salmon and provides habitat for predator species of juvenile Chinook. Because the project includes the removal of a large (approximately 4,316 square-foot) existing wood pier with 27 treated-wood piling, the project will result in a net reduction of overwater coverage at this location of approximately 708 square feet, which will benefit migrating salmonids at this location. The project will follow a series of Best Management Practices (described in the application material and summarized on plan sets (e.g., Sheet A 3.4) during the removal of the existing pier and piling and construction of the new pier. These BMPs will ensure protection of the aquatic and shoreline environment during construction, consistent with the shoreline general development standards cited above.

As proposed and conditioned, the short-term construction related activities should have minimal effects on migratory fish routes and do not warrant further conditioning.

The Stormwater Code (SMC 22.800) places considerable emphasis on improving water quality. In conjunction with this effort, DPD developed a Director's Rule 2000-16, to apply best management practices (BMPs) to prevent erosion and sedimentation from leaving construction sites or where construction will impact receiving waters. Due to the adjacency of Salmon Bay Waterway, and the proposed work associated with demolition and construction of structures, the potential exists for impacts to adjacent waters during construction. Therefore, approval of the substantial development permit will be conditioned to require application of construction best management practices (BMPs). Completion of the attachment to the Director's Rule and adherence to the measures outlined in the attachment shall constitute compliance with BMP measures.

**SMC 23.60.600 – Development standards for the UM Environment**

The proposal is subject to the development standards for the UM environment. Refer to the table below.

<b>UM Environment Development Standards</b>			
<b>Development Standard</b>	<b>Permitted/Required</b>	<b>Proposed</b>	<b>Code Citation</b>
Use Permitted outright.	Marine retail sales and services.	Marine retail sales and services.	SMC 23.60.720
Use Permitted as an Accessory Use	Caretaker's quarters not exceeding eight hundred (800) square feet in living area.	Three (3) caretaker's quarters in three separate structures; none exceed 800 square feet.	SMC 23.60.092
Height Limit	Thirty-five (35) feet, except as modified by SMC 23.60.752 B through D.	Meets standard; see Sheet A-1.1 for details.	SMC 23.60.752
Lot Coverage	Fifty (50%) percent of the submerged portion and seventy-five (75%) percent of the dry-land portion of a waterfront lot.	Meets standard; see Sheet A-1.1 of plans for details.	SMC 23.60.754A.
View Corridors	Fifteen (15%) percent of the width of the lot.	Meets standard; see Sheet A-1.1 for details.	SMC 23.60.756A

As noted above, Seattle's Municipal Code provides criteria for the review and conditioning of shoreline substantial development permits. Thus, as shown in the applicant's development plans and illustrated in the UM Environment Development Standards matrix, the Director has determined that the proposal is consistent with the criteria of, SMC 23.60.030A.2 and may be conditionally granted as noted at the end of this decision.

Chapter WAC 173-27 establishes basic rules for the permit system to be adopted by local governments, pursuant to the language of RCW 90.58. It provides the framework for permits to be administered by local governments, including time requirements of permits, revisions to permits, notice of application, formats for permits, and provisions for review by the state's Department of Ecology (DOE). As the Seattle Shoreline Master Program has been approved by DOE, the criteria and procedures of SMC Chapter 23.60 are consistency with WAC 173-27 and RCW 90.58.

**SMC 23.60.092**

The project includes the proposal for three 800-square-foot caretaker's quarters at three of the four proposed buildings. These quarters are proposed as accessory to the proposed marine retail sales and service use. Residential uses are prohibited on waterfront lots in the CM Environment pursuant to SMC 23.60.430. Due to this prohibition, these caretaker's quarters are only allowed as accessory to the permitted use if they meet criteria in SMC 23.60.092.

The project applicants submitted a description of the need for these quarters for the intended principal use at these building in order to meet the criteria in SMC 23.60.092. According to the applicant, the quarters are intended for the captain, engineer or other qualified individual to occupy while their vessel is undergoing work at the facility in order to monitor or supervise work on the vessel as well as perform other functions to mitigate risks associated with the vessel repair, including being on-site to respond promptly to problems that may arise during the repair period. No other residential uses for these quarters are authorized by this permit.

### **DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT**

The Shoreline Substantial Development permit is **CONDITONALLY GRANTED** subject to the condition noted at the end of this document.

### **Conclusion**

SMC Section 23.60.064 E provides authority for conditioning of shoreline substantial development permits as necessary to carry out the spirit and purpose of and to assure compliance with the Seattle Shoreline Code, Chapter 23.60, and with RCW 90.58.020 (State policy and legislative findings).

Thus, as shown in the applicant's development plans, the Director has determined that the proposal is consistent with the criteria for a shoreline substantial development permit and may be approved. Further, the goals of the Shoreline Master Program would be better served by authorizing the reconfiguration of the development containing the marine retail sales and service use. Such reconfiguration includes enhanced upland and street views, limiting the location of structures over water, and improved view corridors and public access (see the Proposed Project Description above).

### **ANALYSIS-SEPA**

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant's agent, dated May 2, 2012, and annotated by the Land Use Planner. The information in the checklist, the supplemental information submitted by the applicant and the experience of the lead agency with the review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665) clarifies the relationship between codes, policies and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority.

The Overview Policy states, in part, "Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation" subject to some limitations. Under such limitations/circumstances (SMC 25.05.665) mitigation can be considered.

### Short-Term Impacts

Construction activities could result in the following adverse impacts: emissions from construction machinery and vehicles; increased dust levels associated with grading and demolition activities; increased noise levels; occasional disruption of adjacent vehicular traffic, and small increase in traffic and parking impacts due to construction workers' vehicles. All of these impacts are minor in scope and of short duration. Several construction-related impacts are mitigated by existing City codes and ordinances (such as the Stormwater code and Street Use ordinance, and mitigating measures described above pursuant to the Shoreline Management Program) applicable to the project. Since the proposal site is located in an industrial commercial area, noise impacts would be sufficiently mitigated by the Noise Ordinance and no other measures or conditions are warranted. See discussion in Shoreline analysis above about Best Management Practices that will be utilized during demolition and construction of piers for project.

### Long-Term Impacts

Long-term or use-related impacts are also anticipated from the proposal: increased demand on public services and utilities and increased energy consumption. These long-term impacts are not considered significant because the impacts are minor in scope. The project will result in a net reduction in overwater coverage at this location as well as the removal of treated-wood piling (to be replaced with steel piling) that will have a benefit for migrating salmonids that utilize the Ship Canal and this location.

### Summary

In conclusion, no significant adverse effects on the environment are anticipated as a result of the proposal. No conditions are imposed as mitigation to specific impacts identified in the foregoing analysis, or to control impacts not regulated by codes or ordinances, pursuant to adopted City policies.

### **CONDITIONS — SEPA**

None.

### **SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT – CONDITIONS**

#### During Construction

1. The owner(s) and/or responsible party (ies) shall take care to prevent debris from entering the water during construction and to remove debris promptly if it does enter the water. Materials and construction methods shall be used which prevent toxic materials, petrochemicals and other pollutants from entering surface water during and after construction. Appropriate equipment and material for hazardous material cleanup must be kept at the site.

Signature: (signature on file)  
Ben Perkowski, Senior Land Use Planner  
Department of Planning and Development

Date: September 27, 2012